

EXHIBIT 17

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

COMMODITY FUTURES TRADING)	
COMMISSION,)	
)	
)	
Plaintiff,)	
)	Case No.
vs.)	22-CV-4563
)	
GEMINI TRUST COMPANY, LLC,)	
)	
Defendant.)	
)	

VIDEOTAPED AND VIRTUAL DEPOSITION OF ROSE TOOMEY
VOLUME II

Thursday, November 16, 2023
AT: 9:07 a.m. Central European Time

Taken at:
Amsterdam, NETHERLANDS

Court Reporter:
Rose Kay
Accredited Real-time Reporter

Job No. CS6289354



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<p>1 Gemini's fees, relative to its trading volume, as between</p> <p>2 August and September of 2017?</p> <p>3 A. As I recollect, Hashtech was suspended on</p> <p>4 14 September and the trading between Hashtech and Cardano</p> <p>5 ceased; and although the maker rebate hurt, the real -- the</p> <p>6 real source of the losses was the -- the taker fee that</p> <p>7 Hashtech had, in combination with the 15 bp maker rebate</p> <p>8 that Cardano had.</p> <p>9 Q. And can you remind me: how does the Gemini</p> <p>10 exchange make money?</p> <p>11 A. Fees on trades.</p> <p>12 Q. Did Hashtech and Cardano ever trade with each</p> <p>13 other through the Gemini auction?</p> <p>14 A. I can't remember that happening.</p> <p>15 Q. I would like to show you DX321.</p> <p>16 (Exhibit DX321 marked.)</p> <p>17 Q. DX321 is Bates numbered GEM_CFTC100575.</p> <p>18 Ms. Toomey, I am going to ask you some questions about the</p> <p>19 first page of this, but read as much as you like.</p> <p>20 A. Okay.</p> <p>21 Q. Okay.</p> <p>22 And what is DX321?</p> <p>23 A. It is a discussion in Slack between myself and</p> <p>24 Cameron Winklevoss.</p> <p>25 Q. And was DX321 created at or near the time by</p>	<p>1 ran."</p> <p>2 Q. Okay.</p> <p>3 Does that refresh your recollection as to</p> <p>4 whether Hashtech and Cardano ever traded through the Gemini</p> <p>5 auction?</p> <p>6 A. It does. They did not trade in the auction.</p> <p>7 Q. To your knowledge, as someone who --</p> <p>8 withdrawn.</p> <p>9 Were you involved in writing the code for</p> <p>10 the Gemini auction?</p> <p>11 A. I was.</p> <p>12 Q. To your knowledge -- withdrawn.</p> <p>13 You are familiar with how the Gemini auction</p> <p>14 functions; correct?</p> <p>15 A. Correct.</p> <p>16 Q. To your knowledge, as one of the people who</p> <p>17 designed -- one of the people who programmed the Gemini</p> <p>18 auction, and having investigated Hashtech and Cardano, would</p> <p>19 it have been possible to effectuate a trading scheme like</p> <p>20 the one that Hashtech and Cardano used through the Gemini</p> <p>21 auction?</p> <p>22 A. It would not.</p> <p>23 Q. Do you know if Gemini ever disclosed the</p> <p>24 trading activity between Hashtech and Cardano to any</p> <p>25 government authorities?</p>
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<p>1 someone with knowledge of the matters being discussed?</p> <p>2 A. Yes.</p> <p>3 Q. And was DX321 kept in the course of</p> <p>4 a regularly conducted activity of Gemini?</p> <p>5 A. Yes.</p> <p>6 Q. And was sending Slack messages such as DX321</p> <p>7 a regular practice of Gemini's activities?</p> <p>8 A. Yes.</p> <p>9 Q. So if you look at the first message in DX321,</p> <p>10 is that a question from Cameron Winklevoss to you?</p> <p>11 A. Yes.</p> <p>12 Q. And what question did he ask you?</p> <p>13 A. "Did Hashtech and/or Cardano ever interact in</p> <p>14 the auction?"</p> <p>15 Q. Okay.</p> <p>16 And if you go down to the middle of DX321, on the</p> <p>17 first page there is a message that you sent at 7:09 p.m. Do</p> <p>18 you see that?</p> <p>19 A. I see it.</p> <p>20 Q. Could you read the message that you sent</p> <p>21 Mr. Winklevoss at 7:09 p.m.?</p> <p>22 A. "Confirmed none - neither Hashtech nor</p> <p>23 Cardano ever participated in auction. No auction-only</p> <p>24 orders were ever placed. No standing continuous book orders</p> <p>25 were filled by crossing with the auction book when auction</p>	<p>1 A. I do not.</p> <p>2 Q. A few times during -- a few times today, the</p> <p>3 name Ben Small has come up.</p> <p>4 A. Yes.</p> <p>5 Q. Do you recall that?</p> <p>6 A. Yes.</p> <p>7 Q. How did you know Mr. Small?</p> <p>8 A. He was hired, I believe, in 2016 as the head</p> <p>9 of market structure, and later became the COO.</p> <p>10 Q. And for how long -- for how long were you and</p> <p>11 Mr. Small colleagues at Gemini?</p> <p>12 A. Slightly less than a year and a half.</p> <p>13 Q. And how frequently did you interact with</p> <p>14 Mr. Small in your capacity as Gemini employees?</p> <p>15 A. In -- in the second half of 2016 and the first</p> <p>16 half of 2017, frequently.</p> <p>17 Q. Daily, more than daily, weekly? Do you have</p> <p>18 some --</p> <p>19 A. I don't know if it was daily, but it was</p> <p>20 probably three, four, five times a week. It depends what he</p> <p>21 wanted ...</p> <p>22 Q. Okay.</p> <p>23 Do you recall there came a time when Mr. Small was</p> <p>24 suspended by Gemini?</p> <p>25 A. Yes, although I did not know what had happened</p>